

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In the Matter Of:

SEBASTIAN NEGRON TORRES  
SSN: xxx-xx-1010

Debtor

Case No. 21-03391 (ESL)

Chapter 13

MOTION TO DISMISS UNDER §1307(c)(6)

TO THE HONORABLE COURT:

COMES NOW, creditor POPULAR AUTO LLC, represented by the undersigned attorney and very respectfully states and prays as follows:

1. On November 16<sup>th</sup> 2021, debtor herein filed a bankruptcy petition under Chapter 13 of Title 11 of the United States Code.
2. Popular Auto LLC (hereinafter “Popular Auto”) is a secured creditor of the above-named debtor pursuant to 11 U.S.C. §101(10) and therefore, a party in interest in the instant proceeding.
3. On April 28<sup>th</sup> 2021, debtor Sebastian M. Negrón Torres subscribed with appearing creditor a Retail Installment Sales Agreement, contract no. xx-xxx-xxxxx-xxx0001, over a 2016 Mini Cooper. The contract was payable in one (1) initial installment of \$515.33 and seventy-one (71) consecutive monthly installments of \$415.33 that will expire by its own terms on May 4<sup>th</sup> 2027.
4. Popular Auto filed the corresponding claim for this secured debt on December 23<sup>rd</sup> 2021; in the total amount of \$20,073.19. See Claim No. 3.



5. Debtor's proposed Chapter 13 Plan dated November 16<sup>th</sup> 2021 (docket no. 2), calls for sixty (60) payments of \$460.00 for a total base of \$27,600.00. The plan provides for the trustee to pay attorney's fees in the amount of \$3,710.00; payment "In Full" to Popular Auto plus pre-confirmation adequate protection payments of \$200.00 and insurance coverage paid by the trustee through Eastern America Insurance Co.<sup>1</sup>; and finally, pro-rata distribution to all general unsecured creditors.
6. Popular Auto submits that debtor has defaulted in the terms and conditions of his proposed plan, having at present three (3) payments in arrears with the chapter 13 trustee. The total amount in arrears is \$1,380.00 (\$460.00 x 3). See Case Financials for Case No. 21-03391, marked as Exhibit No. 1. Payments to the trustee are due on the 14<sup>th</sup> day of each month, starting on December 14<sup>th</sup> 2021. Debtor should have made four (4) payments but only one (1) has been made so far. The current payment situation shows a serious feasibility problem for the debtor. He may have the best intention to make the payments to the trustee but apparently his economic means are not enough to cover his household expenses and comply with plan payments
7. Section 1307 (c)(6) of the Bankruptcy Code, 11 U.S.C. §1307 (c)(6), provides in pertinent part that:

“(c) Except as provided in subsection (e) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a

---

<sup>1</sup> The date when the insurance coverage must start was not disclosed in the plan. The maturity date is April 28<sup>th</sup> 2027.



case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, including- ... material default by the debtor with respect to a term of a confirmed plan.”

(Emphasis added).

WHEREFORE, creditor POPULAR AUTO LLC, respectfully requests from this Honorable Court that an order dismissing this case be entered for debtor’s failure to comply with the requirements of §1307(c)(6) of the Bankruptcy Code and grant any such other remedy it may deem just and proper.

NOTICE IS HEREBY GIVEN THAT WITHIN THIRTY (30) DAYS AFTER SERVICE AS EVIDENCED BY THE CERTIFICATION, AND AN ADDITIONAL THREE (3) DAYS PURSUANT TO FED. R. BANK. P. 9006(f) IF YOU WERE SERVED BY MAIL, ANY PARTY AGAINST WHOM THIS PAPER HAS BEEN SERVED, OR ANY OTHER PARTY TO THE ACTION WHO OBJECTS TO THE RELIEF SOUGHT HEREIN, SHALL SERVE AND FILE AN OBJECTION OR OTHER APPROPRIATE RESPONSE TO THIS PAPER WITH THE CLERK’S OFFICE OF THE U.S. BANKRUPTCY COURT FOR THE DISTRICT OF PUERTO RICO. IF NO OBJECTION OR OTHER RESPONSE IS FILED WITHIN THE TIME ALLOWED HEREIN, THE PAPER WILL BE DEEMED UNOPPOSED AND MAY BE GRANTED UNLESS: (i) THE REQUESTED RELIEF IS FORBIDDEN BY LAW; (ii) THE REQUESTED RELIEF ITS AGAINST PUBLIC POLICY; (iii) IN THE OPINION OF THE COURT, THE INTEREST OF JUSTICE REQUIRES OTHERWISE.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY: That on March 21<sup>st</sup> 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Victor Thomas Santiago, Esq., attorney for debtor; Mr. Alejandro Oliveras Rivera, Esq., Chapter 13 Trustee; and I hereby certify that I have mailed by the United States Postal Service the document to the following non CM/ECF participants: Mr. Sebastian M. Negron Torres, Debtor, 658 Ave. Miramar 901, San Juan P.R. 00907; and to all parties in interest as per the attached master address list.



Motion to Dismiss Under 11 U.S.C. §1307  
Case No. 21-03391 (ESL)  
By: Popular Auto  
March 21, 2022  
Page No. 4

Respectfully submitted in San Juan, Puerto Rico, this 21<sup>st</sup> day of March, 2022.

**/s/ EDGAR A. VEGA RIVERA**  
EDGAR A. VEGA RIVERA, ESQ.  
USDC- PR 212210  
Attorney for Popular Auto LLC  
Consumer Bankruptcy Department  
PO Box 366818  
San Juan, Puerto Rico 00936-6818  
Tel. (787) 753-7849; Fax. (787) 751-7827  
E-mail: edgar.vega@popular.com



## FINANCIAL SUMMARY - CASE 21-03391

SEBASTIAN NEGRON TORRES paying **\$460.00** MONTHLY

Receipts	Rcpts/Deb Refunds	Disbursements	Adjustments	Trustee Disb	Trustee Adj	Show All
----------	-------------------	---------------	-------------	--------------	-------------	----------

Limits: Select Start Date ▼ | Select Claim ID ▼ | Select Payee Name ▼ Check Status: Cleared Stale Dated Stop Payment Cancelled Voided Outstanding

Date	Payee	Payee Name	Source / Check	Description	Receipts	Disbursements	Balance
1/14/2022			7606 96W00 0003	INTERNET PAYMENT	\$460.00		
12/24/2021			5355 43W00 0003	INTERNET PAYMENT RETURNED	(\$460.00)		
12/21/2021			5355 43W00 0003	INTERNET PAYMENT	\$460.00		
Totals:					\$460.00	\$0.00	



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In the Matter Of:

**SEBASTIAN NEGRON TORRES**  
SSN: xxx-xx-1010

**Debtor**

**CASE NO. 21-03391 (ESL)**

**Chapter 13**

**AFFIDAVIT FOR DEFAULT JUDGMENT PURSUANT TO SECTION 201(b)(4)**  
**OF THE SERVICE MEMBERS CIVIL RELIEF ACT OF 2003**

I, **Edgar A. Vega Rivera**, Attorney for the Consumer Bankruptcy Department of Banco Popular de Puerto Rico, declare under penalty of perjury the following:

That according to the enclosed certification, provided by the Department of Defense Manpower Data Center (DMDC), the Debtor is not in active duty or under call to active duty as a member of the Army, Navy or Air Force of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

In San Juan, Puerto Rico, this 21<sup>st</sup> day of March, 2022.

s/ **EDGAR A. VEGA RIVERA**



**Status Report  
Pursuant to Servicemembers Civil Relief Act**

SSN: XXX-XX-1010  
Birth Date:  
Last Name: NEGRON-TORRES  
First Name: SEBASTIAN  
Middle Name:  
Status As Of: Mar-21-2022  
Certificate ID: V39P1CNCGXBTYS0

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director  
Department of Defense - Manpower Data Center  
400 Gigling Rd.  
Seaside, CA 93955



The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq. as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/#/faqs>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

## More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

## Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.



## **Creditors**

**DEPARTAMENTO DE HACIENDA DE PR**

BANKRUPTCY DEPARTMENT (4969101)  
PO BOX 9024140 (cr)  
SAN JUAN, PR 00902

**DEPARTMENT OF TREASURY**

SECTION OF BANKRUPTCY 424-B (4973525)  
PO BOX 9024140 SAN JUAN PR, 00902-4140 (cr)

**FIRST PREMIER BANK**

3820 N LOUISE AVE (4969102)  
SIOUX FALLS, SD 57107 (cr)

**LCDO. RAMON PEREZ GONZALEZ**

CALLE HATILLO #6 (4969103)  
San Juan, PR 00918 (cr)

**LCDO. ROBERTO LOPEZ GONZALEZ**

PO BOX 361582 (4969108)  
SAN JUAN PR 00936 (cr)

**MACYS**

PO BOX 8218 (4969104)  
Mason, OH 45040 (cr)

**OPENSKY CAPITAL BANK**

101 CROSSWAYS PARK WEST (4969105)  
Woodbury, NY 11797 (cr)

**POPULAR AUTO**

BANKRUPTCY DEPARTMENT (4969107)  
PO BOX 366818 (cr)  
SAN JUAN, PR 00936-6818

**POPULAR AUTO**

BANKRUPTCY DEPARTMENT (4969106)  
PO BOX 366818 (cr)  
SAN JUAN, PR 00936-6818

**Premier Bankcard, LLC**

Jefferson Capital Systems LLC Assignee (4978897)  
Po Box 7999 (cr)  
Saint Cloud MN 56302-9617



03/21/2022 09:56:16

<b>PACER Login:</b>	bppr4180	<b>Client Code:</b>	
<b>Description:</b>	Creditor List	<b>Search Criteria:</b>	21-03391-ESL13 Creditor Type: All
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.10